

S.B. CIVIL WRIT PETITION NO.6074/2003
Rajendra Godhara & Party Vs. State of Rajasthan & Anr.

Date : 11.2.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Dinesh Mehta, for the petitioner.

Mr. V.K. Mathur, for the respondents.

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Heard learned counsel for the parties.

The petitioner is aggrieved against the assessment order dated 25.8.2003 by which the petitioner was held liable to pay the amount for which he was given sales tax collection contract for the period from 1.9.2000 to 31.8.2001.

According to learned counsel for petitioner, the petitioner was though awarded the above contract from 1.9.1999 for a period of two years but in fact, the petitioner, before expiry of first year, submitted before the State Government in writing that the petitioner do not want to continue with the contract and the State Government gave contract to the other party for the remaining period, therefore, the petitioner was not liable to pay any amount on the basis of the original contract but for the period from 1.9.2000 to 31.8.2001 for which assessment order has already been passed on 18.3.2002.

It appears from the assessment order Annex.7 that nobody appeared before the assessing authority despite notice. According to learned counsel for the petitioner, notices were not served upon the petitioner and if the petitioner will prefer appeal against the order dated 25.8.2003, he will have to follow the procedure of pre-deposit and that will cause hardship to the petitioner despite the fact that the demand raised by the assessing authority is wholly without jurisdiction.

I have considered the rival submissions and perused the impugned order.

It is clear from the order dated 25.8.2003 that the authority has recorded a finding that the notices were sent to the petitioner by ordinary mode as well as by registered mode. If the notices have not been served to the petitioner, he should have approached the assessing authority for setting aside the order on the ground that the order was passed without giving an opportunity of hearing to the petitioner.

This Court cannot inquire whether the notices were properly served upon the petitioner or not ?

The pre-deposit to maintain the appeal is ordinary mode provided under the Act itself and appropriate order may be sought from the appellate authority.

In view of the above disputed question of fact that

whether the petitioner continued the contract for the whole period as mentioned in the order or not or whether opportunity of hearing was given to the petitioner, this Court is not inclined to investigate all these disputed questions of fact under writ jurisdiction.

The petitioner may avail alternate remedy available to him with an application for condonation of delay which may be considered by the concerned authority sympathetically.

With these observations, this writ petition is disposed of.

(PRAKASH TATIA), J.

S. Phophaliya